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 UNDERWRITERS INSURANCE COMPANY, NORTH
 AMERICAN CAPACITY INSURANCE CO.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

NORTH AMERICAN CAPACITY
 INSURANCE COMPANY, as successor in
 interest to UNDERWRITERS INSURANCE
 COMPANY,

Plaintiffs,

v.

TURNER CONSTRUCTION COMPANY, a
 corporation; JAMES E. ROBERTS-OBAYASHI
 CORPORATION; WILLIAM LYONE HOMES,
 INC., a corporation, DAME CONSTRUCTION
 CO., INC., a corporation, GONSALVES &
 SANTUCCI, d/b/a CONCO CEMENT
 COMPANY;,,

Defendants.

) Case No. C 03-05521 WDB

) **STIPULATION AND ORDER OF**
) **DISMISSAL PURSUANT TO FEDERAL**
) **RULE OF CIVIL PROCEDURE 41(a)(1)**

IT IS HEREBY STIPULATED by and between Plaintiff, NORTH AMERICAN
 CAPACITY INSURANCE ("NAC") and Defendant, EMPLOYERS INSURANCE OF WAUSAU,
 by and through their undersigned counsel that the complaint of NAC, and all related causes of
 action, against EMPLOYERS INSURANCE OF WAUSAU, are hereby dismissed with prejudice
 pursuant to Federal Rule of Civil Procedure, Rule 41(a)(1).

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As a result of a settlement reached between the parties, each side is to bear their own fees and costs herein.

Dated: March 28, 2006

GILBERT, KELLY, CROWLEY & JENNETT LLP

By: /S/

TIMOTHY KENNA
Attorneys for Plaintiffs,
NORTH AMERICAN CAPACITY
INSURANCE COMPANY AS SUCCESSOR
IN INTEREST TO UNDERWRITERS
INSURANCE COMPANY

Dated: November 16, 2005

SENN MEULEMANS LLP

By: /S/

WAYNE BURKAMP
Attorneys for Defendants,
EMPLOYERS INSURANCE OF WAUSAU

IT IS SO ORDERED



Dated: April 3, 2006

By:

HONORABLE WAYNE D. BRAZIL
UNITED STATES MAGISTRATE JUDGE

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